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# Security Council

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**Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities**

## Note verbale dated 26 March 2004 from the Permanent Mission of Nepal to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Kingdom of Nepal to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit herewith the report submitted by His Majesty's Government of Nepal, pursuant to Security Council resolution 1455 (2003) (see annex).

04-30264 (E) 260404

**Annex to the note verbale dated 26 March 2004 from the Permanent Mission of Nepal to the United Nations addressed to the Chairman of the Committee**

## Report Submitted to the Security Council Committee Established Pursuant to Resolution 1267 (1999)

### 1. Introduction

Nepal vehemently condemns terrorism in all its forms and manifestations. Since Nepal herself is suffering from terrorist activities, controlling and combating terrorism has been one of the top priorities of His Majesty's Government of Nepal (HMG/N). At the international level HMG/N has become party to the following anti-terrorism conventions:

- Convention on Offenses and Certain Other Acts Committed on Board Aircraft, 1963.
- Convention for Suppression of Unlawful Seizure of Aircraft 1970.
- Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, 1971.
- Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, 1973.
- Convention Against the Taking of Hostages, 1979.
- Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988.

In addition, HMG/N has also signed the International Convention for the Suppression of Terrorist Bombings 1997 and is actively contemplating to join the remaining instruments. Similarly, at the regional level, HMG/N has become party to the SAARC Regional Convention on the Suppression of Terrorism, 1998 and has recently signed the SAARC Additional Protocol on the Suppression of Terrorism adopted by the Twelfth SAARC Summit held in Islamabad in January 2004.

HMG/N has already enacted various laws in this regard. She has promulgated the Terrorism and Disruptive Activities (Control and Punishment) Act 2002 to specifically combat the scourge of terrorism in view of the country's problem of terrorism as well as various Security Council Resolutions including 1373 (2001). This report is, therefore, submitted to the United Nations Security Council Committee established pursuant to Resolution 1267 (1999) in compliance with the provisions of the Security Council Resolution 1267 (1999) of 15 October 1999, 1333 (2000) of 19 December 2000, 1363 (2001) of 30 July 2001, 1390 (2002) of 16 January 2002, 1452 (2002) of 20 December 2002, 1455 (2003) of 17 January 2003 and 1526 (2004) of 30 January 2004.

**Consolidated List**

- There are no reported activities of Usama Bin Laden, Al-Qaida, the Taliban and their associates in Nepal. Nepal herself is faced with the menace of internal Maoist violence. All her efforts are geared towards combating the activities of all terrorist networks including the Maoist through the effective deployment of Royal Nepalese Army, the Nepal Police and the Armed Police forces.

- The names of individuals and entities contained in the list of 1267 Committee have been maintained by all the immigration check points including the Tribhuvan International Airport, the only international airport in the country through which all air travelers come to Nepal. The Home Ministry and the Interpol Section of the Police Headquarters also maintain and update the 1267 Committee's list through internet. The Home Ministry monitors from time to time the implementation of the list by making available the updated list to the land immigration check points where there are no installed computer facilities. The Finance Ministry undertakes the financial supervision of the accounts of the individuals and entities contained in the list through the mandatory instructions to the Central Bank (Nepal Rastra Bank). Nepal Rastra Bank is empowered by the Nepal Rastra Bank Act, 2002 to supervise the transactions of all the commercial banks and the financial institutions operating in the country. Moreover, as banks and financial institutions require account holders to produce Nepalese Citizenship Certificate as a proof of Nepali Citizen at the time of opening almost all types of accounts, the penetration by foreign terrorists is evidently less likely.

- The Land Immigration Check Posts lack the computerized facilities. They have been facing problems in tracing the names of the terrorists contained in the 1267 Committee's List through manual process.

- The Nepalese authorities have so far not found any individuals/entities associated with the Taliban, the Al-Qaida and the Usama Bin Laden inside the territory of the Kingdom of Nepal nor have found anybody operating on their behalf. His Majesty's Government has declared Nepal Communist Party-Maoist (CPN-Maoist) and its activists terrorists who have unleashed unspeakable violence on the civilians and security personnel for the last eight years.

- No listed individuals or entities have brought any lawsuit or engaged in legal proceedings against any authority of His Majesty's Government of Nepal for inclusion of their names in the list.

- Authorities of His Majesty's Government have not identified any of the listed individual as nationals or residents of the Kingdom of Nepal. HMG/N has no information about the individuals or entities not already included in the List.

The Terrorism and Disruptive Activities (Control and Punishment) Act, 2002 is a sweeping anti-terrorism law which prohibits any terrorist activities. The Act has identified the following activities as terrorist activities:

- Any act or plan of using any kinds of arms, grenades or explosives, or any other equipment or goods with the objective of affecting or hurting sovereignty

or the security and law and order of the Kingdom of Nepal or any part thereof or the property of the Nepalese diplomatic missions abroad thereby causing damage to property at any place or any act causing loss of life or dismemberment or injury or setting fire or hurting physically and mentally, or any act of poisoning goods of daily consumption causing loss of life or injury, or any other aforesaid acts thereby causing panic among the people in motion or assembled;

- Acts of intimidation or terrorizing individuals at any place or in any vehicle or abducting them or creating terror among them by threatening to abduct them from vehicles and places or abduction of people traveling on such vehicles as well as activities like taking the life of others, causing physical mutilation, injury and harm or causing other types of damage by using substances mentioned in the relevant section in that connection or threatening to use them, or acts like the production, distribution, accumulation, peddling, import and export, marketing or possession or installation of any kind of arms and ammunition or bombs or explosives substances or any assistance in this connection;
- Acts of gathering people or giving training for this purpose;
- Any other acts aimed at creating and spreading fear and terror in public life;
- Acts such as extortion of cash or kind or looting of property for this purpose forcibly raising cash or kind or looting property in pursuit of the said purpose;
- Any attempt or conspiracy to engage in terrorist or disruptive activity, or to encourage or force anyone to take up such activity, gathering more than one individual for such purpose, constituting any group to the same end, or assigning anyone to such activity or participating in such activity with or without pay or engaging in publicity or such activity, causing obstruction to government communications system, or giving refuse to any individual engaged in terrorist or disruptive activity, or hiding any person doing any of these things.

The following provisions have been made in the Act to address terrorist activities:

- Anyone indulging in crime in Nepal while residing abroad will also be subject to punishment.
- The Government can declare a terrorist affected area or terrorist individuals.
- House arrest can be used to prevent any terrorist in accordance with the disruptive act.
- Cases will be heard in a court constituted or designated by His Majesty's Government.
- Arrangements will be made for reasonable expenses for treatment and compensation in case of the maiming or death or security personnel or police assigned to control or investigate terrorist and disruptive activities.
- Cases instituted under this ordinance will not be subject to any statute or limitation.

- Individuals arresting or helping in the arrest of any terrorist will be suitably awarded.

The HMG/N is in the process of amending, updating and improving the Terrorism and Disruptive Activities (Control and Punishment) Act in accordance with the Constitution of the Kingdom of Nepal 1990.

## 2. Financial and Economic Assets Freeze

The Nepal Rastra Bank Act, 1955 has now been replaced by Nepal Rastra Bank Act, 2002. Under this Act, Nepal Rastra Bank has full powers to regulate the functions and activities of commercial banks and financial institutions.

For the purpose of regulation, the Nepal Rastra Bank may frame rules and by-laws on matters, which the Bank deems appropriate and issue necessary orders, directives, and circulars and it shall be the duty of the concerned commercial banks and financial institutions to abide by such rules, by-laws, order, directives and circular.

The Nepal Rastra Bank may issue necessary directives to commercial banks and require them to submit particulars on the following subjects:

- Books and accounts, profit and loss account, balance sheet and off-balance sheet, and statements of income and expenses.
- Prohibitions, restrictions or conditions concerning specific types or forms of credit or investments, loan and investment in excess of the ceiling prescribed by the Bank, risk bearing commitment, position of foreign exchange, payment and electronic and other means of payment.
- Other particulars and documents prescribed by the Bank.

Furthermore, His Majesty's Government has recently promulgated on Ordinance (2004) that brings under its umbrella all banks and other financial institutions. The commercial banks and financial institutions are obliged to abide by the orders of the Central Bank including the asset freeze of individuals or entities involved in the terrorist activities.

Likewise, the Terrorism and Disruptive Activities Control and Punishment Act 2002 has made provisions for seizing all the properties (movable and immovable including cash) of the persons who commit crime under this Act.

The Ministry of Finance of His Majesty's Government instructs the Nepal Rastra Bank to freeze immediately the assets of individuals or entities involved in or associated with the terrorist organizations including the Taliban, Usama Bin Laden and the Al-Quaida networks as when such requests for freezing of assets are received from the UN Security Council Committee established pursuant to resolution 1267 (1999). His Majesty's Government has so far fully acted on the requests of the said Committee for freezing the assets of the individuals or entities involved in terrorism. The commercial banks and financial institutions operating in Nepal have responded that no account exists in Nepal of the individuals and entities contained in the list of the 1267 Committee.

In addition, HMG/N is seriously engaged in introducing an anti-money laundering law as an economic policy package for which some preliminary work is already underway. With the adoption of such law in the near future, the terrorist activities would be quickly traced out and contained as soon as any information to this effect is received.

## 3. Travel Ban

The Immigration Act, 1992, the Civil Aviation Act, 1958 and the Aviation Safety (Arrangement) Regulation, 1990 provides for the ban on the entry into or the transit through the territory of the Kingdom of Nepal or any foreign nations engaged in the crimes in accordance with the existing laws of Nepal. This also applies to the individuals included in the List of the 1267 Committee. The provisions of the said Acts also ban the landing and the over-flight of the aircrafts owned and operated by the individuals or entities in the said List.

The Ministry of Home affairs, the Interpol Section of the Nepal Police Headquarters and the Tribhuvan International Airport maintain a computerized information of the individuals or entities contained in the List of the 1267 Committee. Since the Tribhuvan International Airport is the only international Airport in the country, the suspected air passengers are checked against the list of individuals maintained in the List of the Immigration Office of the Airport. The Border Land Immigration Check Posts keep the list of the individuals prepared and forwarded by the Home Ministry of His Majesty's Government of Nepal from time to time on the basis of the information received from the 1267 Committee. These immigration check point lack the infrastructure for maintaining a computerized updated list for want of computer facilities and trained manpower and the sufficient resources required for this.

So far the immigration offices have not found any individuals contained in the list coming to Nepal through its various immigration check points.

The Department of Immigration keeps a vigilance on the movement of the suspected individuals through the network of immigration check points in the country. Similarly, other security agencies viz: Nepal Police, the Armed Police, the Department of National Intelligence and the Regional Administration Office monitor the movement and activities of the suspected terrorists through the network of their zonal, district and area level offices.

As Nepal is currently beset with the menace of entrenched internal terrorism, the existence of open border the country has with its neighbours poses additional burden to the country in combating the possible infiltration of the suspected terrorists into the kingdom.

The Ministry of foreign Affairs, HMG/N has instructed all the diplomatic Missions and the Consulates abroad to maintain an updated list of the individuals/entities contained in the 1267 Committee List and to vet carefully about the suspected individuals while issuing visas to the foreigners planning to visit Nepal. Visa issuing authorities in the Missions abroad as well as the immigration offices inside Nepal have not identified any visa applicant whose name appears on the List.

## 4. Arms Embargo

The Sections 3, 4 and 5 of the 'Arms and Ammunition Act, 1963' strictly prohibit the production, possession and sale of any kind of weapons (including any kind of machine gun, artillery gun and mortar, rifle, pistol, revolver, mines and grenade, fog signal, fuse, gun powder, detonator, cartridge and other weapons as defined by the act) without license. Similarly, no one is entitled to buy such weapons without license within the country or outside the country under the provision of the section 1 and 3 of the same act. Any person who commits such crime may face 7 years of imprisonment and financial penalty.

The Terrorism and Disruptive Activities (Control and Punishment) Act, 2002 clearly defines 'any acts like the production, distribution, accumulation, peddling import and export, marketing or possession or installation or any kind of arms and ammunition or bombs or explosive substances, poisonous substances or any assistance in this connection, aimed at creating and spreading fear and terror in public life as an act of terrorism. The Act also prohibits the recruitment to terrorist groups. Those who commit such crimes are subject to severe punishment (up to life imprisonment).

Thus, the prevailing laws of the country stringently prohibit the acquisition, transfer, sale, import, export and use of conventional arms and the weapons of mass destruction by any individuals including Usama Bin Laden, members of Al-Qaida organizations and the Taliban and other individuals, groups, undertakings and entities associated with them without the permission received from the Government.

## 5. Assistance and Conclusion

Nepal is committed to combat the menace of terrorism in all its forms and manifestations. Internally, Nepal has been confronted with the violence of Maoist terrorists for more than 7 years. Nepal has shown zero tolerance to any terrorist activity, committed in whatever forms and manifestations. Nepal has fulfilled its reporting obligations emanating from the Security Council Resolution 1373 (2001) by timely submission of the reports to the Counter Terrorism Committee.

The border immigration check points in Nepal lack appropriate infrastructures for maintaining a network of computerized information system to regularly monitor the movement of suspected individuals within the territory of Nepal. Computerized information facilities and the necessary training for the immigration officials would help to better monitor the movement and other activities of suspected terrorists who come in and go out of the territory of the Kingdom of Nepal. His Majesty's Government is trying its best to comply with the provisions of various international resolutions/commitments through the utilization of its scarce resources. Nepal appreciates any assistance in upgrading such facilities with a view to implementing the various resolutions of the United Nations.

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# Security Council

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26 March 2004
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**Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities**

## Letter dated 26 March 2004 from the Chargé d'affaires a.i. of Panama to the United Nations addressed to the Chairman of the Committee

I have the honour to transmit to you the report of the Republic of Panama pursuant to Security Council resolution 1455 (2003) (see annex).

(*Signed*) Hernán **Tejeira**
Ambassador, Alternate Permanent Representative
Charge d'affaires a.i.

04-29350 (E) 080404 150404

## Annex to the letter dated 26 March 2004 from the Chargé d'affaires a.i. of Panama to the United Nations addressed to the Chairman of the Committee

## Republic of Panama

## Report submitted pursuant to paragraphs 6 and 12 of resolution 1455 (2003)

### I. Introduction

**1. Please provide a description of activities, if any, by Osama bin Laden, al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.**

There have been no reports thus far of activities related to these groups or persons within our territory.

### II. Consolidated List

**2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?**

When the List is received the Ministry of Foreign Affairs sends it to the authorities involved with the issue.

**3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.**

When little biographical information is provided about the individual, difficulties arise when it comes to checking the names. In some cases only a first name is given.

These people's titles -- Hajj, Mullah, Maulavi and variations thereon -- are sometimes mistaken for their names.

**4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.**

No individual or entity whose name appears on the List has been identified within our territory.

**5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.**

At present we have no knowledge of any individual or entity not included in the List.

**6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.**

Thus far no one has filed any lawsuit or complaint against our authorities on those grounds.

**7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.**

The Directorate of Migration and Naturalization receives the lists and updates thereto. Thus far no one named on the List has been found to be a national or resident of our country.

**8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in al-Qaida training camps established in your territory or in another country.**

As far as we know these groups do not operate, recruit or maintain training camps in our country.

With regard to these crimes, our Penal Code states that:

*Article 264 (c), paragraph 2*: Chapter VI, entitled "Terrorism", establishes a penalty of 8 to 10 years in prison for:

2. Anyone who conceals, shelters, provides accommodation for or recruits persons for the execution of any of the acts described in article 264 (a) of this Code, or who joins any group that pursues that goal.

*Article 264 (a)*. Anyone who, acting individually or as a member of or in collaboration with armed gangs, organizations or groups whose purpose is to overthrow the constitutional order or to cause a serious breach of the peace, commits acts against individuals, property, public services or communications media or transport facilities that produce alarm, fear or terror in the population or a group or sector thereof, by means of explosives, toxic substances, weapons, fire, flood or any other means of violence or mass destruction, shall be subject to a penalty of 15 to 20 years in prison.

## III. Financial and economic assets freeze

**Under the sanctions regime (paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.**

***Note*: For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable.**

**9. Please describe briefly:**

- **the domestic legal basis to implement the asset freeze required by the resolutions above;**
- **any impediments under your domestic law in this context and steps taken to address them.**

With regard to heading III "Financial and economic assets freeze" of Security Council resolution 1455 (2003), our country has included in its legal system a legal definition of "confiscation of property", which is regulated by article 7 of Act No. 42 of 2 October 2000 establishing measures for the prevention of money-laundering and which, in turn, refers to the regulations contained in Act No. 23 of 30 December 1986, containing the Single Text on Drugs and is applicable to the offence of terrorism and to unlawful activities linked to terrorism.

It is worth noting that, in July 2003, Panama adopted Act No. 50 of 2 July 2003, article 264 (b) of which states that "Anyone who intentionally finances, subsidizes, conceals or transfers money or assets for use in the commission of any of the acts described in article 264 (a) of this Code, even without participating in the execution thereof and even if the acts are not carried out, shall be subject to 15 to 20 years in prison." Article 264 (a) was mentioned in the answer to question 8 above.

**10. Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, al-Qaida or Taliban related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.**

The Financial Analysis Unit continuously follows up and monitors the lists issued by the United States Government and the resolutions on terrorism adopted by the United Nations Security Council.

As part of its ongoing review of the lists of terrorists, that Unit sends the updated lists to each of the oversight and monitoring agencies of the reporting entities, with express instructions to distribute them to each of the institutions they regulate; these, in turn, in accordance with the guidelines provided by the FAU and its respective oversight and monitoring agencies, must check the names on the lists and, if they find any information or account, they send a suspicious transaction report to the FAU with all the relevant documentation.

**11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.**

Reporting entities, whether financial (banks, trust companies, exchange and remittance offices or persons conducting exchange and remittance activities, savings and loan cooperatives, finance companies, stock exchanges, stock markets, securities firms, stock brokers and investment managers) or commercial (companies established in the Colón Free Zone, other free zones and processing zones, the National Beneficial Lottery, casinos and other establishments dedicated to gambling

and games of chance, real estate development companies and real estate brokers, and insurance and reinsurance companies and insurance brokers), are under an obligation pursuant to existing legislation (Act No. 42 of 2 October 2000 establishing measures for the prevention of money-laundering), to develop a "due diligence" and "know your customer" policy.

**12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:**

- **identification(s) of the person or entities whose assets have been frozen;**
- **a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **the value of assets frozen.**

Thus far there are no frozen assets of listed individuals or entities.

**13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of the al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.**

Thus far there have been no frozen assets of listed individuals or entities.

**14. Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:**

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used;**
- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated;**
- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated;**
- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items;**

- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

Pursuant to Act No. 42 of 2 October 2000, the regulated institutions are under an obligation to adopt manuals on procedure designed to prevent crime and they will have to establish what are the rules and responsibilities of each official of the institution with regard to prevention of money-laundering and of the underlying crimes (such as terrorist acts and the financing thereof).

It is also important to point out that, in accordance with existing legal norms, these procedures call for the oversight and monitoring agencies to review and authorize all activities in order for them to apply within the said institutions. The procedures cover opening of an account or initiation of a relationship with a client, updating of information which the institution has about a client, follow-up and monitoring of the account's performance and movement and mechanisms for reporting suspicious transactions to the FAU.

As regards "hawala" and similar remittance systems, financial institutions and exchange and remittance offices have been duly informed about this system and the danger of its being used for money-laundering and acts of terrorism. Another applicable norm is Act No. 48 of 23 June 2003, which regulates the operations of remittances offices.

Charities, cultural organizations and other non-profit organizations that collect and pay out funds for social and charitable purposes are regulated by the Ministry of the Interior and Justice, the Government entity responsible for granting these organizations the status of legal persons.

Since 2001, the Republic of Panama has been implementing a programme on transparency and integrity of the Panamanian financial system. The main goal of this project, which is being financed by the Inter-American Development Bank (IADB), is to support the State institutions that operate as oversight and monitoring agencies and the reporting entities of the private sector on matters concerning prevention of money-laundering and financing of terrorism.

## IV. Travel Ban

**Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2 (b) of resolution 1390 (2002)).**

**15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.**

For people wishing to travel to our country, Panama applies the rule of restricted visas for certain nationalities on grounds of national security. Coordinated checks are carried out by the Directorate of Migration and Naturalization and the Council for Public Security and National Defence. The latter periodically publishes the names of terrorists on the lists provided by the various international security agencies and services and these are compiled in a database, making it possible to keep a record of the various restrictions on entries and exits imposed by the competent authorities.

Each visa application involving a nationality restricted for reasons of national security is checked by the Counter-Terrorism Intelligence Unit of the Council for Public Security and National Defence. The Executive Secretariat of that body subsequently makes a recommendation to the Directorate of Migration and Naturalization with respect to the approval or rejection of the request.

As regards persons who do not need a visa to enter Panama, there is closer scrutiny of entries to and exits from the country and greater emphasis is placed on an individual's "origin and profile" than on where his travel document was issued.

**16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.**

Yes, the names of the individuals on the stop list have been included in the immigration system list of persons barred from entering or leaving our country. Should a listed individual be spotted, the competent authorities at the airports and at all border checkpoints in general have manuals setting forth the procedure to be followed.

It is worth noting that problems may arise when checking the names of persons entering or leaving the country against those in the database, since the programmes accept specific data and most Muslim and Arab names can be spelled in a variety of ways in Spanish. This means that the immigration official must check the various spellings and combinations of names and aliases making the process somewhat time-consuming.

**17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?**

The List is updated whenever an international security agency adds a new name to the list of persons to watch out for.

**18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.**

Thus far no one named on the List has been stopped.

**19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?**

The Consulates cannot issue visas to persons of restricted nationalities without the prior approval of the corresponding national authorities. The Consulates have not received any visa application from any of the persons named on the lists.

## V. Arms Embargo

**Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Osama bin Laden, members of al-Qaida organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities**

**(paragraph 2 (c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).**

**20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Osama bin Laden, members of al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?**

**21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

**22. Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.**

**23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

In accordance with the guidelines for the submission of reports, we refer to our reply contained in paragraph 2 (a) of the expanded report on measures to combat terrorism and the financing of terrorist activities, submitted in September 2002 pursuant to Security Council resolution 1373 (2001). We would also point out once again that Panama does not manufacture weapons or ammunition.

**24. Apart from article 312 of the Penal Code, what measures are in place in Panama to prevent terrorists obtaining weapons within or outside its territory, in particular small arms and light weapons? What is the legislation concerning acquisition and possession, and import and export of weapons?**

As regards specific measures to prevent illicit arms trafficking, the relevant authorities of the Republic of Panama are implementing the following:

*Decree No. 354 of 29 December 1948* regulating the use of weapons, ammunition and explosives.

*Article 8*: Shotguns and small-calibre rifles for sports target practice and their cartridges, and primers and ammunition for those purposes may be legally traded, but their sale and use are restricted under the provisions of this Decree and as required by the Police in each case.

Under our criminal law an offence involving nuclear materials is not a separate offence. However, our legislation does contain regulations that cover the issue, including the following:

- *Executive Decree No. 305 of 4 September 2002*, which states that a prior, non-automatic licence is required for the import of some potentially dangerous chemical substances, such as controlled dangerous substances or materials, and establishes other provisions.

- *Act No. 47 of 21 November 1980*, which assigns duties to various branches of the Government and establishes certain measures. Article 1 states that it is the responsibility of the Ministry of the Interior and Justice, with the assistance and collaboration of branches of the Government that have responsibilities related to the issue, in particular the security authorities, the National Port Authority and the Panama Canal Authority, to exercise control over the entry into, transport, storage, handling and exit from the Republic of Panama of explosives and other substances that pose a danger to human life and health.

- *Act No. 7 of 8 November 1971*. Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.

- Currently our country is studying a draft bill to amend the Penal Code, which would characterize as offences conduct that is prohibited by the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, which was adopted by Act No. 7 of 8 November 1973, and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, which was adopted by Act No. 48 of 1998.

- Our country is also studying a preliminary draft of an executive decree that would establish inter-agency responsibilities in the event of an incident involving chemical, biological or radioactive agents or dangerous materials.

Likewise, our Penal Code establishes, in Book II, Title VII, Chapter VI entitled "Terrorism", article 264 (b), a penalty for anyone who finances, subsidizes, conceals or transfers assets to terrorists. (see answer 9).

United Nations S/AC.37/2004/(1455)/21

# Security Council

Distr.: General
29 March 2004

Original: English

**Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities**

## Note verbale dated 26 March 2004 from the Permanent Mission of San Marino to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of San Marino to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities and has the honour to refer to its letter dated 11 February 2004 and to attach herewith San Marino's report pursuant to resolutions 1526 (2004) and 1455 (2003) (see annex).

04-29243 (E) 160404

**Annex to the note verbale dated 26 March 2004 from the Permanent Mission of San Marino to the United Nations addressed to the Chairman of the Committee***

**Report of San Marino to the Security Council Committee established pursuant to resolution 1267 (1999) in accordance with paragraph 22 of resolution 1526 (2004) and paragraph 6 of resolution 1455 (2003).**

## I. INTRODUCTION

San Marino submits the following report pursuant to paragraph 22 of resolution 1526 (2004) and paragraph 6 of resolution 1455 (2003).

San Marino submitted other reports which are relevant in this context, in particular to the CTC: Therefore, with regard to specific areas reference will be made to these reports:

- S/2001/1292
- S/2002/786
- S/2003/841

For a better understanding of the following replies, some general information on San Marino is first presented.

San Marino relies on an open and well-diversified economy. With 45 operating financial intermediaries, the banking and financial system is a major sector of the San Marino economy, but very limited in size if compared to other financial centres. The regulatory and supervisory framework is in line with the relevant international standards and practices. San Marino is not an offshore financial centre.

San Marino is a member of the MONEYVAL Committee of the Council of Europe, a FATF-Style Regional Body, and as such committed to mutual evaluations in anti-money laundering matters. The country was evaluated for the second time in 2003. San Marino responded to FATF Eight Special Recommendations and Questionnaires on Terrorist Financing. San Marino is also a Member of the IMF and World Bank, which have taken a leading role over the last few years in combating terrorist financing and money laundering. The IMF Article IV Consultations are scheduled in April-May this year.

By reason of its geographical location, San Marino has ever since maintained close bilateral relations and cooperation with Italy, notably through a friendship and good neighbourliness agreement and a currency and customs union, subsequently followed by a cooperation and customs union agreement with the European Union. Though San Marino is not a member of the EU, it adopted the euro as its legal tender through an appropriate currency union agreement.

* Additional documentation is on file with the Secretariat and is available for consultation.

The small territorial size of the country (61 square kilometres) facilitates widespread and accurate controls and patrolling by law enforcement agents (*Gendarmeria*, Civil Police and *Guardia di Rocca*, described in the S/2002/786 Report to the CTC), especially on the borders, and because San Marino has never experienced terrorist acts domestically - and this remains highly unlikely - there has never been the practical need for establishing a special anti-terrorism agency or service. Moreover, domestic law provisions regulating residence and stay permits place a number of restrictions on the presence of foreigners in the country (see Report S/2002/786). This means that it is virtually impossible to stay in San Marino for a prolonged period of time without the authorities knowing that. Terrorists are neither harboured nor recruited in San Marino.

This nonetheless, San Marino has been prompt in taking appropriate measures to join the international fight against terrorism and terrorist financing. The relevant international instruments were signed and ratified, important steps were taken to increase and enhance protection of the domestic economic and financial system (for more detailed information see Reports S/2002/786 and S/2003/841), and most recently a Law was passed criminalizing terrorism and terrorist financing and supplementing the 1998 anti-money laundering law (Law No. 28 of 26 February 2004 – copy is attached in Italian and English). The CTC had been informed of a Draft Law on anti-terrorism as early as 2002. However, a series of government crises and reshuffles inevitably caused a number of issues to be postponed or delayed, including the approval of this Law.

**1. Please provide a description of activities, if any, by Usama Bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.**

There is neither evidence nor immediate threat of such activities by Usama Bin Laden, Al-Qaida, the Taliban and their associates in San Marino. As stated in the introduction, the small size of the country makes it impossible for terrorists to hide out, recruit or be recruited.

## II. Consolidated List

**2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?**

For the reasons explained above, the list has been implemented basically to protect the domestic financial sector on the one hand, and, on the other, to freeze funds and other financial assets and resources of individuals and entities indicated in the List. Resolution 1267 (1999) was formally received by the Currency Authority (Central Bank of the Republic of San Marino) on 18 July 2000, Resolution 1333 (2000) on 8 October 2001, Resolution 1373 (2001) on 5 November 2001 under Congress of State's Decision No. 1 "Provisions to Monitor and Counter the Financing of International Terrorism", the latter containing again an express reference to resolutions 1267 and 1333. The Supervision Department of the Central Bank of the Republic of San Marino (formerly Office of Banking Supervision) has issued since September 2001 a number of formal Communications addressed to banking and financial institutions transmitting the updates of the Committee's List under

resolution 1267 (1999), 1390 (2002) and 1455 (2003). By means of the Communication dated 9 June 2003 banking and financial institutions were also expressly requested to regularly check the Consolidated List made available on the Security Council Committee's website.

Importantly, the San Marino Supervision Department formally received and communicated to banking and financial institutions all relevant EU Regulations adopting the various UN resolutions, and related lists, basically identical to the Committee's List. More specifically: Council Regulation (EC) No. 337/2000 of 14 February 2000 (adopting resolution 1267), Council Regulation (EC) No. 467/2001 of 6 March 2001 (adopting resolution 1333), Council Regulation (EC) No. 881/2002 of 27 May 2002 (adopting resolution 1390), as well as all relevant amendments and adjustments to such Regulations made by the EU Commission. The latest of such formal communications by the Supervision Department of the Central Bank dates 23 March 2004.

**3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.**

Where the data available are incomplete (e.g. relevant first or family names are missing or misspelled, the place and/or date of birth is not indicated) technical difficulties arise with the identification of a person or entity. A further difficulty certainly derives from the confusion that many of the aliases listed generate.

**4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.**

No such designated individuals and entities have ever been identified inside the territory of San Marino.

**5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.**

No such individuals and entities not included in the List have ever been identified inside the territory of San Marino.

**6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.**

The answer is no.

**7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.**

The answer is no.

**8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.**

For the reasons described in the introduction, no terrorists are either harboured or recruited in San Marino.

**III. Financial and Economic Assets Freeze**

**9. Please describe briefly:**

**• the domestic legal basis to implement the asset freeze required by the resolutions above;**

**• any impediments under your domestic law in this context and steps taken to address them.**

The current legal basis is Law No. 28 of 26 February 2004 "Provisions on Anti-Terrorism, Anti-Money Laundering and Anti-Insider Trading". Article 1 of said Law criminalizes, by introducing Article 337 *bis* in the Criminal Code, the promotion, setting up, organization, direction and financing of, or participation in terrorist acts and activities, while Article 16 stipulates that "Within operations of an investigative nature aimed at identifying and suppressing the felonies referred to in Articles 199 *bis* [money laundering], 207 [usury] and 337 *bis* [terrorism] of the Criminal Code and at acquiring relevant evidence, the Supervision Department of the Central Bank of the Republic of San Marino may, in case of serious and converging circumstantial evidence, temporarily block or freeze the capitals or other financial resources or assets, as well as any account or business relationship held or maintained with the San Marino banking and financial intermediaries [...]". Prior to this Law, the Anti-Money Laundering Law No. 123/1998 applied, based on an "all-crimes" approach, with terrorism and terrorist financing being included among predicate offences, though not yet criminalized up until early this year. For further clarification in this regard, reference is made to the S/2002/786 and S/2003/841 Reports. It is worth recalling, however, that with special regard to the possibility of freezing funds suspected of being directly or indirectly related to terrorist financing, Congress Decision No.1 of 5 November 2001 (mentioned under point 2 of this Report) applied.

There are no impediments under the domestic legislation.

**10. Please describe any structures or mechanisms in place within your Government to identify and investigate Usama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.**

The Anti-Money Laundering Law No. 123/1998 stipulates, as a restriction on the use of cash, that all transactions exceeding EUR 15,500 have to be conducted through a bank or a licensed financial intermediary. The same Law clearly provides for customer identification, record maintenance and suspicious transaction reporting obligations by banking and financial institutions, as well as for penalties in case of non compliance with said Law and with the implementing provisions issued by the Supervision Department. Under the new Law No. 28 of 26 February 2004, such obligations have been extended to other non-financial activities and professionals (e.g. real estate agencies, lawyers, notaries, etc.), thus incorporating the 2nd EU Directive on money laundering, in respect of whom the Supervision Department will have to issue special implementing provisions.

Due diligence and know-your-customer rules are those generally applied to combat money laundering, in accordance with international standards, and are extensively addressed in two Circulars issued by the Supervision Department (formerly Office of Banking Supervision): Circular No. 26 of 27 January 1999 and Circular No. 33 of 12 February 2003. For a description of their contents, reference is made to the S/2002/786 and S/2003/841 Reports and copies of the Circulars sent to the CTC.

With regard to structures or mechanisms to identify and investigate Usama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them, the Supervision Department regularly circulates the EU Council and Commission Regulations (as stated under point 2 above) instituting certain specific restrictions on individuals and entities linked to Usama bin Laden, the Al-Qaida network and the Taliban.

Article 17 of Law No. 28/2004 extends the powers of the Supervision Department, in that the Supervision Department may rely, subject to the prior authorization of the judge, on the cooperation of the Police Forces while conducting financial investigations. Art. 15 of Law No. 28/2004 provides for the use of special investigation techniques by police agents in investigations aimed at countering money laundering, usury and terrorism, the use of such techniques subject to being authorized by the Court.

As Financial Intelligence Unit (since 1996), the Supervision Department closely cooperates internationally with other FIUs under Memoranda of Understanding generally based on the Egmont Group Model. Procedures have been started to apply for membership in the Egmont Group.

It is worth recalling that last year, Law No. 86 of 27 June 2003 provided for a functional integration between the Office of Banking Supervision and the Central Bank (for detailed information reference is made to the S/2003/841 Report). Under said Law, the new structure has allowed the former OBS to

draw on the human and technological resources and organisational capacities of the Central Bank, with some of its employees having been assigned to the Supervision Department.

With regard to international cooperation in legal matters, San Marino provides assistance under mutual legal assistance treaties. In the absence of such a treaty or other formal agreement, the judicial authorities are nonetheless able to provide assistance in criminal matters to other states on the basis of letters rogatory. For greater details reference is made to the S/2003/841 Report to the CTC.

**11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.**

Please refer to the information provided under point 10 above.

**12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities." Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2000) and 1390 (2002). Please include, to the extent possible, in each listing the following information:**

**• identification(s) of the person or entities whose assets have been frozen;**

**• a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**

**• the value of assets frozen.**

No assets have been frozen pursuant to resolutions 1455 (2003), 1390 (2002), 1333 (2000) and 1267 (1999). We wish to recall, as stated in the introduction, that the San Marino banking and financial system is very limited in size.

**13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.**

Not applicable, because no such assets have been frozen.

**14. Pursuant to resolutions 1455 (2003), 1390 (2002), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:**

**• The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**

As previously described, the San Marino banking and financial institutions are informed by the Central Bank, through its Supervision Department, by means of circulars, standard letters and communications. This method is quite effective given the limited number of institutions operating in San Marino, as stated in the introduction.

**• Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated**.

Such requirement, applying to all banking and financial institutions, is stated in the Anti-Money Laundering Law No. 123/1998, while the relevant implementing provisions are basically contained in two Circulars issued by the Supervision Department. Circular No. 26 of 27 January 1999 and Circular No. 33 of 12 February 2003 set forth the criteria to identify and report suspicious and/or unusual transactions. Circular No. 33 also imposes an obligation to collect, besides the customer's personal data (e.g. from an official ID document) also information on his business/professional activity, and to periodically check this information against documentation other than that required for entering a business relationships (for example utility billing). Financial intermediaries have to analyse the transactions conducted by customers on the basis of their economic/asset capacity, by making a critical comparison between the objective features of transactions (such as type, amount and nature) and the customer's background (economic capacity, business activity, other information). The same Circular, moreover, explicitly provides for a compliance officer in charge of relations with the Supervision Department, as well as for ongoing staff training.

The Supervision Department analyzes these STRs/UTRs and, if well-grounded, forwards them to the Court for judicial investigation or prosecution. For greater details, reference is made to the S/2002/786 and S/2003/841 Reports sent to the CTC.

**• Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated**.

Non-bank financial institutions are subject to the same requirements as banks. Please, refer to the what explained above.

**• Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.**

Under Law No. 41 of 25 April 1996 the buying and selling of unrefined gold is a responsibility of the Central Bank. Economic agents are allowed to buy bar gold in any form for the production of goods in San Marino subject to the prior authorisation of the Central Bank which is also responsible for supervision of the use and destination of imported unrefined gold. The same principle was reaffirmed in Law No. 86 of 27 June 2003 (already mentioned under point 10 above), whereby the functions of the Central Bank include, among other things, the sole right –with possibility of delegating other banks or branches operating on the territory – to conduct transactions in bullion and precious metals.

Any business activity involving the trade in, including the export and import of, gold (for industrial or investment purposes) and precious stones and objects – subject to the authorization and supervision of the Central Bank referred to above – must be duly authorized and licensed under the relevant laws and regulations.

Under Art. 8 of the new Law No. 28/2004 such business operators are subject to same customer identification, record maintenance and reporting requirements as financial intermediaries.

**• Restrictions or regulations, if any, applicable to alternate remittance systems such as -- or similar to -- "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

No alternative remittance systems exist in San Marino. Non-profit organizations mainly include cultural and sports associations. They are limited in number and generally rely on government contributions.

**IV. Travel Ban**

**15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.**

No special measures have been taken in this regard for the reasons outlined in the introduction. San Marino is not a transit country and issues no visas. Anyone wishing to reach San Marino must necessarily travel across Italy. Therefore, anyone holding a tourist visa to enter Italy is equally allowed to enter and stay in San Marino for tourist purposes. Such person is required to duly and promptly inform the *Gendarmeria* of his intention to stay in the country. Failing such tourist visa, a foreigner is only allowed to stay in San Marino (in all cases for a period not exceeding 90 days) if there has been a formal invitation by a San Marino national and if he or she is in possession of a double transit visa issued by the competent consular authority in Italy or in a Schengen country. Hotels and other accommodation facilities are required to identify their customers and report regularly to the *Gendarmeria*. Lastly, as stated in the introduction, the San Marino law provisions on the granting of residence and stay permits strictly limit the presence of foreigners in the country.

**16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.**

There is no national "stop list" for the reasons described under point 15 above.

**17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?**

The San Marino police forces have access, by virtue of bilateral arrangements, to the database of the Italian Ministry of the Interior. For further information on police and border control authorities, please refer to the S/2002/786 Report to the CTC.

**18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.**

No such individuals have ever been stopped in San Marino.

**19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?**

For the reasons explained under point 15 above San Marino has no visa-issuing authorities.

**V. Arms Embargo**

**20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?**

As stated in the introduction, San Marino is in a customs union with the European Union and therefore import and export controls are implemented by the EU customs authorities in accordance with the relevant EU regulations and procedures.

The embargoes adopted by the United Nations with Resolutions No. 1267 of 15 October 1999, and No. 1333 of 19 December 2000 were formally received by the Currency Authority on 18 July 2000 and 8 October 2001 respectively, in the framework of the suppression of the financing of terrorism.

Conventional arms and WMD are neither imported nor exported. Import and export of such arms is not authorised in San Marino.

**21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

For the reasons explained under point 20 above, no domestic measures have been adopted. However, Articles 251 and 252 of the Criminal Code punish, by terms of imprisonment and arrest, the unauthorized making, circulation, introduction in the national territory, or carrying of weapons, as well as failure to duly inform the authorities thereof.

**22. Please describe how your arms/arms broker licensing system, if any, can prevent Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.**

Law No. 40 of 13 March 1991 stipulates that any sale and purchase of firearms, including hunting and sport shooting weapons and accessories, is subject to the prior authorization of the *Gendarmeria* (the Military Police). The seller and buyer, duly and correctly identified, as well as the specifications of the weapon must always be indicated. Violations of the provisions set forth in said Law are punishable under Art. 251 of the Criminal Code by terms of imprisonment or arrest. Licenses to carry weapons and ammunition are only issued to individuals.

**23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?**

San Marino has no arms industry and therefore no production of weapons or ammunition domestically.

**VI. Assistance and conclusion**

**24. Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.**

For the reasons outlined in the introduction, the only area in which San Marino would be able to provide assistance is the suppression of terrorist financing.

**25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.**

No such areas have been identified.

**26. Please include any additional information you believe pertinent.**

For further information, please refer to the Reports and annexes sent to the CTC.

United Nations S/AC.37/2004/(1455)/22

# Security Council

Distr.: General
29 March 2004

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**Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities**

## Letter dated 24 March 2004 from the Permanent Representative of Afghanistan to the United Nations addressed to the Chairman of the Committee

I have the honour to attach herewith, in accordance with resolution 1526 (2004), adopted by the Security Council on 30 January 2004, and in particular its paragraph 22, the country report of the Transitional Government of Afghanistan to the Security Council Committee pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and the associated individuals and entities (see annex).

(*Signed*) A. G. Ravan **Farhâdi**
Ambassador
Permanent Representative

04-29232 (E) 260404

**Annex to the letter dated 24 March 2004 from the Permanent Representative of Afghanistan to the United Nations addressed to the Chairman of the Committee**

AFGHANISTAN COUNTRY REPORT TO THE UNITED NATIONS SECURITY COUNCIL IN ACCORDANCE WITH UNSCR'S 1455 AND 1526

In fulfillment of Afghanistan's obligation as a full member of the United Nations and in compliance with Security Council resolutions, specifically resolution 1455 of January 2003, the Afghan Government, hereby, submits this report on steps taken to implement paragraph 6 and 7 of resolution 1455 against the Taliban and Al-Qaeda organization, and other suspected groups and individuals from financing, planning, supporting, facilitating, preparation and perpetration of terrorist acts.

## Introduction

The foundation of the present government of Afghanistan and the ongoing political process with the strong determination and will to fight against Taliban and Al Qaida terrorist organizations was laid down after the successful conclusion of the Bonn Agreement on December 5, 2001. However, the campaign against the Taliban, Al Qaida Terrorist organization and their foreign military allies in Afghanistan is not a post September 11, 2001, phenomenon. The resistance against the growing threat of the terrorist groups dates back to 1994 when the Taliban initially appeared claiming to be saviors of the Afghan people, but later it revealed its true nature as a dangerous terrorist organization that supported, assisted and offered save haven to terrorists from around the world.

Despite capturing capital Kabul, the Taliban never succeeded in conquering the entire country or winning political recognition by the United Nations, because of the military resistance of the legitimate government based in the north of the country.

The events of September11, 2001, changed the whole situation both inside and outside of Afghanistan. With the support of the international community and anti-terrorist coalition forces, the legitimate government of Afghanistan, recognized by the United Nations, ousted the Taliban regime and their terrorist allies. As a result of the inter-Afghan political discussions in Bonn, the transfer of power took place and the Interim Administration headed by President Hamid Karzai became the new government of Afghanistan.

The Bonn Agreement which was sponsored by the United Nations and signed by the Afghan groups, in the presence of the Secretary-General's Special Representative for Afghanistan, Dr. Lakhdar Brahimi, facilitated the formation of Provisional Arrangements pending the re-establishment of Permanent Government Institutions in Afghanistan. The participants of the Bonn Agreement strongly expressed their determination to promote national reconciliation,

respect human rights and work for lasting peace and stability in the country. Furthermore, as agreed by the Agreement, the Afghan Interim Administration assumed the responsibilities of the State and was endorsed as the sole repository of Afghan Sovereignty. The Interim Administration holds the responsibility of representing Afghanistan in the international forums including the United Nations and all other international political, economical and social institutions and conferences.

Following the signing of the agreement, all armed groups opposing the Taliban and Al Qaida terrorist organizations in the country were required to serve under the command and control of the Interim Administration and to be reorganized and reintegrated according to the requirements and demands of the Afghan security institutions and Armed forces.

## I. International Obligations

Like any other post-conflict country, Afghanistan is in a state of transition, moving slowly but steadily towards building democratic institutions and rule of law. As agreed upon in Bonn, the Afghan Government is bound by the paragraph 4 of the final provision of the agreement which states that; "The Interim Administration shall cooperate with the international community in the fight against terrorism, drugs and organized crime." Recognizing the importance of the issue and in conformity with the Bonn Agreement and all Security Council resolutions the government of Afghanistan has declared fighting terrorism as its top policy objective. The country's two complementary but separate policy directions are:

1. Fighting terrorism side by side with the international community in an international effort to eradicate the scourge of terrorism on the international front, and Continue to fight the Taliban and Al-Qaeda terrorist organization until their total elimination on the domestic front;

2. The creation of a sovereign, Islamic State based on the principles of constitutional rule of law, democratic government, respect for human rights, and economic prosperity.

Despite challenges, these policy goals are being resolutely pursued by the Afghan Government with the support and assistance of the United Nations and the international community.

## II. Security Council Resolutions:

Afghanistan as a committed member of the United Nations adheres to all the requirements of the Security Council resolutions. The Afghan Government, observes the requirements and actively participates in Counter-Terrorism activities as required by the Security Council Resolutions 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1452 (2002), 1455 (2003) and 1526 (2004).

## III. Legislative Framework:

Afghanistan's new constitution which was adopted in January 2004 denounces in strong terms any act of terror and promises to take all measures to prevent any types of terrorist activities. Article 7 of the constitution states that;

**"The State shall abide by the UN charter, international treaties, international conventions that Afghanistan has signed, and the Universal Declaration of Human Rights. The State prevents all types of terrorist activities and production and smuggling of narcotics."**

## IV. International Instruments and treaties

The Transitional Government of Afghanistan is party to the following international instruments aimed at curbing terrorism in all forms and manifestations:

1. Convention on offences and certain other Acts Committed on Board Aircraft, ratified on 15 April, 1997.

2. Convention for the Suppression of Unlawful Seizure of Aircraft, signed in 16 December, 1920, acceded and ratified on 29 August 1979.

3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Ratified and Acceded on 26 September, 1984.

4. Statute of the International Criminal Council, acceded on February 10, 2003.

5. Convention on the Prevention and punishment of Crimes against Internationally Protected Persons, on August 15, 2003.

6. International Convention against the Taking of Hostages, August 9, 2003.

7. Convention on the Physical Protection of Nuclear Material, on August 3, 2003.

8. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, on August 14, 2003

9. Convention for the suppression of Unlawful Acts against the Safety of Maritime Navigation, signed on August 10, 2003.

10. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, signed on August 11, 2003

11. Convention on the Making of Plastic Explosives for the purpose of Detection, signed on March 1st 1991, and ratified on 17 August, 2003.

12. International Convention for the Suppression of Terrorist Bombing, 8 August, 2003.

13. International Convention for the Suppression of Financing of Terrorism, on August 5, 2003.

14. Convention against Transnational organized crime, signed on 15 November 2000, ratified on 16 August, 2003.

15. Convention on the prohibition of the development, production, stockpile and use of Chemical Weapons and their destruction, signed on 14 January 1993 and ratified on August 20, 2003.

16. Comprehensive Nuclear-Test –Ban Treaty, on 18 August 2003.

## V. Counter Narcotics:

The drug issue in Afghanistan is a growing concern for the Afghan Government as well as the International community, as most of the opium produced in Afghanistan is refined and exported abroad. According to the United Nations, Afghanistan produced 3,600 metric tons of opium in 2003. The Afghan government is aware of the fact that the criminal activities associated with drug trafficking and terrorism financed by illicit drug money, increases threat to both domestic and international peace and stability.

To address this critical problem, the government has taken some concrete steps; on 17 January 2002, President Karzai issued a decree banning the cultivation, production and trafficking of narcotic drugs. On 3 April 2002, the government issued another decree for the implementation of the eradication campaign. Similarly, on 4 September 2002, another presidential decree was issued to further enforce the ban on cultivation, production, and trafficking of illicit drugs. On 7 October 2002, the National Security Advisor Mr. Zalmay Rasul was assigned by the President to oversee the measures against opium cultivation, production and trafficking.

In 2003, Afghan National Drug Control Strategy (ANDCS) was approved. The aim of the ANDCS is to completely eradicate the drug menace by the year 2013. To curb the drug problem and to implement the ANDCS the Afghan Government has taken the following steps;

- The Counter-Narcotics Directorate has been formed to coordinate, monitor and evaluate the implementation of the ANDCS all over the country.
- A new Drug Law in compliance with the relevant UN Drug Conventions has now been put into effect.
- Counter Narcotics Police of Afghanistan (CNPA) has been created, opening the way for greater cooperation between the Afghan authorities and the international law enforcement and intelligence.

A further development in this area has been holding of the "International Counter Narcotics Conference on Afghanistan" held in Kabul in February 2004. The conference set out the main areas where future action is required to implement the ANDCS efforts.

## VI. Regional Cooperation:

* On 4 June 2002, Afghanistan joined a 16-nation Asian summit in Kazakhstan and signed an anti-terrorism declaration which commits its signatories to denounce **"all forms and manifestations of terrorism whenever, wherever or whoever may commit them."**

* After the successful conclusion of bilateral meetings with the neighboring countries, agreements have been reached for further cooperation in the areas of exchange of intelligence on terrorism and movement of terrorist across borders and also on further coordination of counter-terrorism activities in the region.

## VII. Tripartite Commission:

The Tripartite Commission has the commitment of Pakistan, Afghanistan and the United States to work together for the initiatives aimed at enhancing regional stability. The Mission of the Commission is to address issues of common concerns such as cross-border security, terrorism, exchange of information, prompt response with the provision of information and action. There is agreement to defuse border tension, enhance border stability, build mutual confidence, increase transparency, marginalize extremists and propose border control and visibility mechanisms. The Afghan side of the Commission is headed by the top security official of the State, the National Security Advisor to the President.

The Tripartite Commission representatives will meet regularly. The venue of the meetings rotates among the member states. The Commission may soon have its seventh meeting.

In order to efficiently facilitate functions of the Commission, delegates have decided to establish two Sub-Committees:

- The Military Information Exchange and Coordination
- The Border Posts Sub-Committee

These sub-committees are also expected to meet approximately once a month and report their observations to the Commission.

## VIII. Organization of Financial Transactions:

**Central Bank:** The Constitution sets down the requirements for the establishment of the **Afghan Central Bank**. It was formed to assist citizens and the international community in international transactions as well as to provide a mechanism for the regulation of banking practice. The establishment of the Central Bank will allow the regulation and scrutiny of foreign currency transactions, ownership of accounts by approved foreign entities and the notification of significant transactions in respect to both individual and corporate accounts.

## IX. Afghan National Army Counter-Terrorist Operations:

- In a Presidential Decree in December 2002, in order to regulate and centralize defense, the creation of the Afghan National Army (ANA) was signed. Former Afghan Military Forces (AMF), Mujahideen and other armed groups in Afghanistan now fall under the command and control of the Ministry of Defense (MoD).

- Reform, reorganization and general staffing of the MoD began in the spring of 2003 and paved the way for the appointment of 20 individuals in senior leadership positions and 98 individuals in lower ranking positions, on the basis of merit, experience and with attention to equitable ethnic representation. The staff has undergone a variety of specialized "on the job" training.

- The Kabul Military Training Center has been established and serves as the premier training site for the ANA. The ANA has assumed complete responsibility for conducting basic soldier training and is in the final stages of assuming basic officer training, which is projected to assume basic non-commissioned officer training in late spring, 2004. Combat units of the Central Corps have been operationally deployed in support of efforts to eliminate remnants of the Taliban and Al-Qaeda.

- In November 2003, ANA units were deployed in Mazar-e-Sharif in support of heavy weapons containment programs.

- During the Constitutional Loya Jirga in December 2003, the ANA was deployed in Kabul and surrounding areas as security for the participants to this nationally historic event.

- Hardworking officers, professionals and law enforcement agents of the Ministry of Defense, Ministry of Interior and the National Directorate of Security, have been successful in confiscating and destroying depots and storage sites of heavy weapons once controlled by terrorists.

- In addition, professional police and intelligence personnel have been trained and assigned to sensitive security posts. This has proven to be a successful strategy for the Government. For example, the Afghan Police and law enforcement agencies have been instrumental in the release of national and international hostages taken captive by terrorists.

## X. The National Directorate of Security:

The National Directorate of Security (NDS) is undergoing a program of significant reform and restructuring, both in Kabul and in the provincial offices. In order to meet security challenges effectively in Afghanistan, particularly countering terrorism and organized crime, the NDS' need for greater resources in the areas of logistics, especially communications equipment and transport, must be met so that it can access remote areas of the country.

The NDS has established a special Unit in the Directorate to be in charge of collection, assessment and exchange of information on terrorism. The Directorate has made arrangements with some of the neighboring States to exchange information on terrorists, terrorism and state policies on counter-terrorism, and, possibly, arrangements for the extradition of alleged terrorists.

## XI. Law and Order Trust Fund for Afghanistan:

In September 2003, the Canadian International Development Agency offered a grant of $3M to $5M as seed money for a Trust Fund, to be managed by the UNDP, for the improvement of Law and Order, including programs on counter-terrorism.

The Law and Order Trust Fund for Afghanistan supports the Government's efforts to establish law and order, by assisting the Police Force and by funding a substantial portion of the recurrent costs of the Police Force. It will also help in the procurement of non-lethal equipment such as vehicles, fuel, highway security, and rehabilitation of police-department facilities, police-training and institutional development.

## XII. Strong Public Policy:

It has been the official state policy of the Transitional Administration of Afghanistan to comply with its existing obligations to implement the measures stipulated in resolution 1373 (2001). In support of State policies, the President did not hesitate to express his concerns directly to his audience at home and abroad. The following may represent only a few samples of President Karzai's concerns with terrorism and his desire to introduce measures on counter-terrorism.

President Hamid Karzai's statement in New York on: "The Causes and Effects of Terrorism in Afghanistan," organized by the Government of Norway, September 2003:

"We realize that terrorism being a global threat; it takes a global effort to defeat the menace. Terrorism being a threat to civilization, it takes cooperation of civilizations to defeat this enemy of humanity. This understanding was the cornerstone of the war against terrorism, and the logic behind the support to the war from the Afghan people."

President Hamid Karzai's statement: 58th Session of the General Assembly, United Nations, 25 September, 2003.

"The Struggle against production and trafficking of narcotics continues. We see a direct connection between narcotics and terrorism, and it is in our absolute national interest to fight both. Both are transnational challenges. We in the region and in the international community must make the strategic decision, in the spirit of true partnership, to fight against both menaces."

President Hamid Karzai's statement: 13th Summit of the Non-Aligned Movement, Kuala Lumpur, 23 February, 2003.

"The people of Afghanistan know the high price of war and violence and the yearning for peace, stability and prosperity in the region. Afghanistan is committed to maintain very friendly relations with its neighbors and the international community, and to staying a resilient partner in the war against terrorism. The establishment of security and prosperity in Afghanistan is a means of promoting security and prosperity in the region and the world."

## XIII. Religion and Counter-Terrorism:

The State has invited and encouraged religious scholars to get involved in the training of its citizens to better observe and understand Islamic principles, values and ethical standards, such as justice and fairness, the rule of Law in Islam, as well as, the condemnation of terrorism, violence and drugs.